

In re Appln. of: Udo Gross
Appln. No.: 10/018,398
Attorney docket: 740-X01-003

Goup Art Unit: 1814

REMARKS

On May 25, 2004, Applicants properly filed a Request for Continued Examination (RCE), pursuant to 37 C.F.R. § 1.114, along with the fee required by 37 C.F.R. § 1.17(e).

By virtue of this Preliminary Amendment, claim 16 is amended and claims 23-29 are added as set forth hereinabove. Prior to examination of the RCE application, entry of the above amendments is respectfully requested.

Claim 16 has been amended to state that the claimed method is for "treating" an eye. The amendment places the claim in the form in which it was amended in applicant's October 2, 2003 amendment. The Examiner rejected the claims in a December 31, 2003 Final Office action due to the term "treating", which the Examiner felt required a list of diseases. Merriam-Webster's 2004 dictionary defines "treat" as "to care for or deal with medically or surgically", which appears to support the Examiner's position. However, Merriam-Webster's 2004 dictionary also defines "treat" as "to regard and deal with in a specified manner"; or "to act upon with some agent, especially to improve or alter", which supports Applicant's position that the word treat is a broad term and a specific list of diseases are not necessary in the claims as amended. In addition, applicant's specification fully supports the position that the claimed substance is not for the treatment of a particular disease. It is therefore respectfully submitted that the Examiner's interpretation of the term "treat" is unnecessarily narrow.

It is hereby submitted that the term "treating" is sufficiently broad to cover placing an ophthalmologic agent into an eye, as stated in claim 16. As explained in paragraphs [0006] through [0009] of the specification of the instant application, the object of the invention is not to treat any particular disease of the eye, but is instead, to provide a pharmacological agent for a variety of purposes, such as a carrier of a variety of possible medicines, tear substitutes, liquid implants, as well as vitreous body substitutes

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and replacement of lenses (para. [0010]) to the eye, without the prior art disadvantage of damaging the eye due to long term application and penetration of the retina. Given the above-stated generally-known definition of "treat", the claims are now consistent with that disclosed in the specification of the instant application.

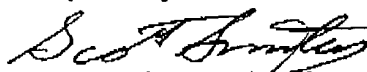
Claims 23-29 have been added to the instant application.

No new matter has been added. It is respectfully requested that the above-listed claims be approved and entered.

In light of the foregoing remarks, this application should be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

The present application, after entry of this amendment, comprises fourteen (14) claims, including seven (2) independent claims. Applicants have previously paid for twenty (20) claims including three (3) independent claims. Applicants, therefore, believe that no fee is due with this submission. However, if a fee is due or overpayment owed, the Commissioner is authorized to charge or credit the appropriate amount to Deposit Account No. 500601 (Docket no. 754-X01-003).

Respectfully submitted,



Martin Fleit, Reg. #16,900
by Scott Smiley, Reg. #55,627

FLEIT KAIN GIBBONS GUTMAN & BONGINI
601 Brickell Key Drive Suite 404
Miami, Florida 33131
Tel: 305-416-4490; Fax: 305-416-4489